

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SHAWNTEZ D. JOHNSON,
SHANEE N. JOHNSON, and DIAMOND L.
JOHNSON, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
July 25, 2006

Petitioner-Appellee,

v

ROBERT JOHNSON,

Respondent-Appellant.

No. 266715
Wayne Circuit Court
Family Division
LC No. 98-367572-NA

Before: Neff, P.J., and Bandstra and Zahra, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating his parental rights to the children pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

In March 2002, Diamond was born testing positive for cocaine. Petitioner filed a petition for Diamond and her siblings, Shawntez and Shanee. The court terminated the mother's parental rights to all three children, and, finding that respondent had failed to protect them from their mother, the court established its jurisdiction over the children and took them into its temporary custody. The children were placed in respondent's care.

Later that year, respondent went to Indiana without notifying petitioner or the court. The court issued an order requesting that Indiana authorities investigate respondent's home in Indiana to determine its suitability for the children. The Indiana authorities concluded that the home was not suitable, and the court ordered that the children be removed from respondent's care and placed in foster care in Michigan. Additionally, respondent was ordered to address the issues raised in the Indiana assessment by taking parenting classes, participating in substance abuse treatment, submitting urine screens and maintaining suitable housing. Petitioner's counsel and caseworkers advised respondent several times during the course of the proceedings that he was free to seek services in Indiana but that petitioner did not have authority to compel Indiana to provide services. In March 2004, Indiana authorities updated their home assessment and concluded once again that respondent's home was not suitable, finding this time that respondent

may have committed Medicaid fraud and referencing allegations by Shawntez that he had been sexually molested by the son of respondent's live-in partner while in respondent's care.

In August 2004, petitioner filed a permanent custody petition seeking termination of respondent's parental rights to all three children. The termination trial commenced on May 31, 2005. Just before trial, respondent submitted a urine screen, which tested positive for cocaine. The evidence showed that respondent participated in, but never completed, a chemical dependency course, and he failed to submit any urine screens other than the one ordered by the court before trial. He did come to Michigan most weekends to visit the children. Feeling that respondent needed additional guidance in procuring services, the court ordered respondent to move to Detroit and took the matter under advisement for 90 days.

At the continued trial on August 22, 2005, respondent claimed he had moved to Detroit on June 26, 2005, but petitioner had failed to inform him where he should go for services. Again, the court was concerned that petitioner had failed to clearly instruct respondent and took the matter under advisement. The evidence at the continued trial on October 25, 2005, showed that respondent had failed to submit a single of the eight requested urine screens at the location specified by petitioner. He had not attended any substance abuse treatment. Reports by respondent's therapist indicated that respondent was not benefiting from therapy. The trial court concluded that the evidence supported termination of respondent's parental rights under §§ 19b(3)(c)(i), (c)(ii), (g), and (j).

On appeal, respondent does not challenge termination of his parental rights under § 19b(3)(j). Because only one statutory ground is required to justify termination of his parental rights, § 19b(3)(j) provides a statutory basis for termination of respondent's parental rights and supports the court's ruling. Notwithstanding, the evidence shows that the trial court did not clearly err in finding termination was appropriate under §§ 19b(3)(c)(ii) and (g) as well as (j). MCR 3.977(G)(3); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Although the court erred when it relied upon § 19b(3)(c)(i) to support termination where the conditions resulting in the court's adjudication over the children had been rectified, this error was harmless in light of the other grounds supporting termination. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Further, the evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not clearly err in terminating respondent's parental rights to the children.

Affirmed.

/s/ Janet T. Neff
/s/ Richard A. Bandstra
/s/ Brian K. Zahra